

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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FILE: B-216298

DATE: December 24, 1984

MATTER OF: Blinderman Construction Company

DIGEST:

Solicitation did not provide for aggregate award. However, since agency's minimum needs necessitate an aggregate award and all bidders bid on both items solicited, the protester, who was low on only one of the items, has not been prejudiced by the award based on the low aggregate bid.

Blinderman Construction Company (Blinderman) protests the award of a contract to any other bidder for item I, General Construction, under invitation for bids (IFB) No. 8066-AE, issued by the Veterans Administration (VA), for construction work consisting of an addition and renovations at the VA Medical and Regional Office Center, Sioux Falls, South Dakota. Blinderman asserts that it is the low responsive, responsible bidder for item I under the IFB and, therefore, is entitled to award of the contract.

We deny the protest.

The IFB was issued on July 16, 1984, and called for separate bids for item I, General Construction, and for item II, Asbestos Abatement, with no provision or line for a total bid entry. Bids were opened on August 23, 1984, with Blinderman's bid consisting of \$9,902,762 for item I and \$447,994 for item II. M.A. Mortenson Company (Mortenson) submitted a bid of \$9,924,000 for item I and \$389,000 for item II. Five other bids were received, including a bid by Dawson Construction Co., Inc. (Dawson), of \$10,024,500 for item I and \$383,000 for item II.

In evaluating the bids, the VA totaled the bids for the two items and determined that Mortenson was the low overall bidder at \$10,313,000, while Blinderman was next low at \$10,350,756. After the VA contracting officer advised Blinderman of VA's intention to consider the bids on the basis of the aggregate of the two items, Blinderman

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protested to our Office on September 5, 1984. Thereafter, VA made a determination to award to Mortenson on September 25, 1984, despite the pendency of the protest on the basis that award was advantageous to the government because the onset of adverse weather conditions could otherwise further delay the construction project.

The VA concedes that the IFB is broken down into two separately listed items without any inclusion of a line for a total price, but VA contends that it always intended to award only one contract for the entire project. It points out the necessity to coordinate the asbestos abatement work with the general contracting work and also asserts that deficiencies in this regard could have adverse impact on patient care. In view of these considerations, VA indicates that "a separate award of the two bid items would be so detrimental to the best interests of the government that cancellation of the solicitation . . . would be the VA's only alternative should such a decision be issued."

Although Blinderman disputes the necessity for coordination of the two projects by award to one prime contractor, we cannot say that the agency's determination that such coordination was required was unreasonable. It is clear that the work under items I and II is related to the renovation of the building, and VA is in the best position to determine whether the construction logistics involved necessitate the use of one prime contractor.

Under the circumstances, we do not think the contract award should be disturbed even though the solicitation did not provide for an aggregate award. Blinderman and all the other bidders did submit bids for both items, the prices of all bidders have been exposed, and there is no evidence of unbalanced bidding, or any other impropriety, as a result of the apparent intention to evaluate by item. Further, Mortenson was determined to be the low bidder on the basis of a straightforward aggregate bid evaluation, the government's minimum needs were for an aggregate award, and there is no evidence that Blinderman was prejudiced by the method of evaluation. We have held that even if award is made pursuant to a defective solicitation, it is not improper where the award serves the actual needs of the government and other offerors have not been prejudiced. Contact International, Inc.--Request for Reconsideration, B-210082.2, Sept. 2, 1983, 83-1 C.P.D. ¶ 294.

Accordingly, we deny the protest.

for *Milton J. Dore*
Comptroller General
of the United States